

THE EFFECTIVE DATE OF THIS ORDINANCE IS September 1, 2005

ORDINANCE NO. 65-24-385

**Re: To Amend the Frederick County Personnel Rules**

PREAMBLE

The Board of County Commissioners adopted Personnel Rules for Frederick County on June 1, 1976, by Ordinance No. 76-8-68. The Personnel Rules have been amended several times since then by Ordinance.

The Board of County Commissioners held a duly advertised public hearing on the proposed changes to the Frederick County Personnel Rules on August 16, 2005. Public comment was permitted at this public meeting.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that Chapter X of the Frederick County Personnel Rules is hereby amended to read as shown on the attached Chapter X.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS, that this Ordinance shall take effect on September 1, 2005, or after a copy of the Ordinance has been filed with the Clerk of the Court and a fair summary of the Ordinance has been published in at least one newspaper of general circulation, pursuant to Section 4(b) of Article 25 of the Annotated Code of Maryland, whichever shall last occur.

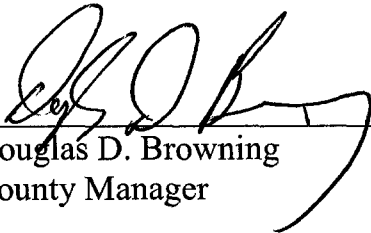
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CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

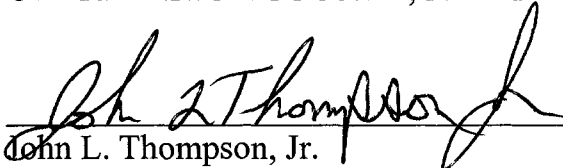
[Brackets] indicate matter deleted from existing law.

The undersigned hereby certifies that this Ordinance was approved and adopted on the 1<sup>st</sup> day of September, 2005.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF FREDERICK COUNTY, MARYLAND

  
\_\_\_\_\_  
Douglas D. Browning  
County Manager

  
\_\_\_\_\_  
John L. Thompson, Jr.  
President

UBT  
9-27-05

## CHAPTER X

### ATTENDANCE, HOLIDAYS AND LEAVE

#### Section 1 - Hours of Work

The hours of work for all County employees shall be determined by the Board of County Commissioners.

#### Section 2 - Attendance

Each Division Director shall be responsible for the attendance of all persons in his/her department.

#### Section 3 - Holidays \*□

A. The following days are designated as regular holidays for employees in the classified service. The dates of these holidays will be determined by the Board of County Commissioners

New Year's Day  
Martin Luther King, Jr. Day  
Presidents' Day  
Good Friday  
Memorial Day  
Independence Day  
Labor Day  
Columbus Day  
Veterans' Day  
Thanksgiving Day  
Friday following Thanksgiving Day  
**Christmas Eve**  
Christmas Day  
Primary, General and Special Election days as they may occur

B. When a holiday falls on Saturday, employees shall be entitled to the Friday preceding said Saturday in observance of such holiday. Whenever a holiday falls on Sunday, the following Monday shall be considered a holiday. **In the case of Christmas Eve and Christmas Day, if Christmas Eve falls on Sunday, the following Monday and Tuesday shall be considered holidays. If Christmas Day falls on Saturday, the previous Thursday and Friday shall be considered holidays.** Holidays which occur during annual leave shall not be charged against annual leave.

C. Clarification of holiday work: In order to eliminate any confusion among employees who are working in departments/divisions that must operate on a regular 24-hours a day, seven days a week schedule, or on a regular six or seven days a week schedule, or on a schedule that is necessary to provide a public service on certain holidays, the following policy is hereby implemented:

1. In those departments and/or divisions where the regular work schedule calls for work on certain holidays (such as may be the case in Parks and Recreation, Department of Aging and any other department/division that may be specified as coming under this provision) in order to provide a service or convenience to the general public, employees of these departments shall be given another "paid day off" in lieu of the holiday.
  - a. Employees working holidays under this provision shall be paid at their regular hourly rate.
  - b. A record of employees who work holidays and are eligible to accrue a "paid day off" will be maintained by the payroll department. This "paid day off" shall be requested by the employee in writing in advance of the actual "paid day off" in order that the Division Director may make any arrangements necessary so the absence does not put an uncalled-for burden on the work of the department and/or division.
  - c. "Paid days off" in lieu of holidays must be taken within the calendar year of the holiday that created the "paid day off" benefit.
2. In those departments and/or divisions that must operate on a regular 24-hours a day, seven days a week schedule, or where the regular work schedule calls for work on holidays due to the nature of operation of the department/division (such as the Adult Detention Center, Landfill, Citizens Nursing Home and Emergency Communications Center, and any other department/division that may be specified as coming under this provision) the employees shall be paid at their regular rate for hours worked plus their regular "holiday pay".
  - a. If an employee desires to waive the regular "holiday pay" and receive a "paid day off" at a later date, he/she shall make that decision prior to actually working the holiday and notify in writing on a standard request form, the Division Director who shall keep a record of all such requests.

\* This Section does not apply to certain employees of the Sheriff's Office. Refer to Chapter I, Section 9.

□ This Section does not apply to certain employees of the Division of Fire and Rescue Services.

## Chapter X - Attendance, Holidays and Leave (continued)

- b. "Paid days off" in lieu of holiday pay must be taken within the calendar year of the holiday that created the "paid day off" benefit.
  - c. Under no circumstances is an employee entitled to "holiday pay" and a "paid day off" for the same holiday.
- 3. In those departments and/or divisions that must operate on a regular 24-hours a day, seven days a week schedule, or in those departments/divisions that have a regular schedule that calls for work on a holiday, and it happens the schedule provides for the "holiday" being an employee's regular day off, the employee is NOT TO BE PAID for the holiday at the time the holiday occurs. Instead, he/she is to be given a "paid day off" during his/her regular work schedule in lieu of the "holiday". This "paid day off" must be provided and used by the employee within the calendar year of the holiday that created the "paid day off" benefit.
- D. Holiday pay and "paid day off" pay is the same rate of pay for the same number of hours paid to the employee for a regular working day, but never to exceed a total of eight hours.
- E. Holiday pay and "paid day off" pay SHALL NEVER BE COMPUTED in any work week as contributing to an overtime rate of pay.
- F. A Division Director may authorize any employee to work a holiday and receive a "paid day off".
- G. The County Manager or his/her designee may authorize "paid days off" in lieu of holidays to be carried over to the following calendar year for good cause.
- H. Accumulated holidays will be paid at the date of separation; however, an employee will not be paid for a holiday if he/she does not work after the holiday occurs.

### Section 4 - Annual Leave

- A. Annual leave is granted to an employee based upon the length of employment.
  - 1. Employees with up to two years of service earn annual leave at the rate of nine and three-fourths (9  $\frac{3}{4}$ ) days per year.
  - 2. Employees with two to ten years of service earn annual leave at the rate of sixteen and one-fourth (16  $\frac{1}{4}$ ) days per year.
  - 3. Employees with ten years of service or more earn annual leave at the rate of twenty-two and three-fourths (22  $\frac{3}{4}$ ) days per year.
- B. The maximum number of annual leave days an employee can carry over from one calendar year to the next is thirty (30) days. Any days in excess of thirty will be converted to sick leave in the first pay period of the subsequent calendar year. The County Manager may authorize an employee to carry over more than 30 annual leave days from one calendar year to the next if the County Manager determines that an extraordinary project reasonably prevents that employee from taking annual leave during the calendar year.
- C. An employee must have been employed for six (6) consecutive months before he/she can take annual leave.
- D. Annual leave cannot be authorized until it has been accrued.
- E. No allowance shall be made for sickness or incapacity of an employee on annual leave.
- F. Under proper termination procedures as defined in Chapters VI, VII and VIII, an employee shall be entitled to be paid for all accrued and unused annual leave. Annual leave cannot be "run out" prior to the date of separation.
- G. Requests for leave: Leave may be taken only after approval by the appropriate authority, but every employee shall be afforded the opportunity to take annual leave during the year, if properly requested.
- H. Annual leave may be used, if requested properly, for vacation purposes or for portions of a day used for personal reasons.

### Section 5 - Sick Leave

- A. Sick leave will be granted to an employee by the same procedure set forth for annual leave in Section 4 of this chapter.
  - 1. There shall be no limit upon the amount of sick leave an employee may accumulate. Sick leave may be taken by an employee from the date of his/her employment.
  - 2. When sick leave is permissible:
    - a. Sick leave shall be allowed in case of the employee's actual sickness or disability, including pregnancy of the employee, and necessary medical and dental appointments.
    - b. Sick leave shall also be allowed for the purpose of caring for the actual sickness, disability, or necessary medical/dental appointments of an employee's child, dependent, spouse, parent, or parent-in-law.
  - 3. In order to receive compensation while absent on sick leave the employee must notify his/her supervisor prior to or within one hour after the time set for beginning his/her daily duties, unless the employee is so ill as to be incapable of notification.

## Chapter X - Attendance, Holidays and Leave (continued)

4. The Director of Human Resources, upon written request by the Division Director or appropriate authority, may require that the employee be examined by a County appointed medical professional at any time.
5. The Division Director, or appropriate authority, with the approval of the Director of Human Resources, in order to prevent abuse of sick leave or to assure medical attention for an employee, may institute a policy whereby an employee may be required to submit a medical certificate signed by a duly licensed medical professional which authenticates a period of illness of one day or more. Examples of sick leave abuse may include, but are not limited to, the following:
  - a. Any pattern of sick leave usage, such as the use of six days in a six month period, one or two days at a time.
  - b. Habitual sick leave absences on Mondays, Fridays, and/or the days immediately before and after holidays.
  - c. Any employee who has no significant accumulation of sick leave after at least three to five years of service, without sustaining a major illness during that time period.
6. Employees suspected of abusing sick leave privileges will be notified and appropriate disciplinary action taken.
7. Upon termination of employment, an employee SHALL NOT be paid for any accrued and unused sick leave.
- B. Returning from sick leave: Upon returning from sick leave, the County may request from an employee a certification from a licensed medical professional or a County appointed medical professional that he/she is able to perform all the duties of his/her position to 100% capability.
  1. If any employee cannot perform the duties of his/her position up to 100% capability, he/she may be refused the right to return to work until this capability is reached.
  2. If, as a result of an illness, an employee cannot perform the essential job functions of his/her position, upon the employee's request, an attempt will be made to make a reasonable accommodation and to place the employee in a position where he/she is capable of performing the duties which the position requires. If a reasonable accommodation cannot be made, the Division Director shall separate the employee from the County service.

### Section 6 - Sick Leave Incentive

- A. In an effort to reward those regular employees who sparingly use their sick leave, the County will, at the end of every calendar year, pay employees for up to three (3) days of pay not to exceed \$75.00 per day. If an employee goes throughout the twelve (12) month period between the first pay period in January and the last pay period in December without using any sick leave, the County will pay a three (3) day bonus to that employee not to exceed a maximum payment of \$75.00 per day. If an employee uses one (1) day sick leave, he/she will receive a two (2) day bonus and if the employee uses two (2) days sick leave, he/she will receive a one (1) day bonus. Any portion of a day will be paid on a prorated basis. Use of three (3) days sick leave or more during any calendar year will warrant no additional pay.
- B. If an employee uses sick leave due to a work related injury or must visit a medical professional at the direction of the County due to a past work related injury, the time used will not adversely affect the calculation of the sick leave bonus.
- C. To be eligible for this bonus, a regular employee must be employed with the County at least 12 months as of the last pay period in December.
- D. If an employee donates sick leave through the sick leave donor program, the sick leave donated will not adversely affect the calculation of the sick leave bonus.

### Section 7 - Annual Leave and Sick Leave Records

- A. Regular employees shall have their annual leave and sick leave records recorded on each pay period's check stub. Regular part-time employees are entitled to accrue a proportionate percentage of annual, holiday and sick leave[s] in relation to the work hours of regular full-time employees for the same position.
- B. An employee shall not be allowed to accumulate annual, holiday and sick leave while on sick leave or Worker's Compensation in excess of sixty (60) working days in a 12 consecutive month period.
- C. If an employee is on sick leave in excess of sixty (60) consecutive working days, or a combination of sick leave days in excess of sixty (60) working days in any calendar year, his/her beginning date of employment will be adjusted to the total number of days over sixty (60) for computing annual and sick leave only.

**Section 8 - Extended Sick Leave (When earned sick and annual leave are exhausted)**

If a regular employee has an extended illness or is absent as a result of an off-duty accident for an extended period of time, and has used all of his/her sick leave and annual leave, the County provides, upon proper application to the Department of Human Resources, an extended sick leave benefit that provides payment of one-half the employee's weekly salary for the remaining period of illness up to one year from the date the extended sick leave began. This benefit may not exceed one year in a three year period. The Director of Human Resources may request that the employee be examined by a County appointed medical professional at any time.

An employee shall not be allowed to accumulate annual, holiday and sick leave while on extended sick leave.

**Section 9 - Sick Leave Donor Program**

A sick leave donor program has been established to assist employees who have exhausted all of their accrued leave. Parameters of this program are available under separate cover from the Department of Human Resources. Under this program:

- A. A regular employee may donate leave hours (of any type) on an as-needed basis, to another regular employee who meets the criteria.
- B. Any regular employee who is eligible to accrue sick leave benefits and has completed 6 months of probationary status is eligible to receive benefits under the sick leave donor program.
- C. An eligible employee may use this benefit in the case of the employee's illness, injury or disability.
- D. An eligible employee may use this benefit for the purpose of caring for the illness, injury or disability of his/her child, dependent, spouse, parent or parent-in-law.
- E. This benefit is limited to 60 working days within 12 consecutive months.

**Section 10 - Military Leave**

- A. A regular employee who leaves the service of the County for the purpose of enlisting in the armed forces of the United States (armed forces means U.S. Army, U.S. Air Force, U.S. Marines, U.S. Navy, U.S. Coast Guard, U.S. Public Health Services, and any special military unit under the direction of the foregoing branches of service), shall be granted a leave of absence without pay and shall be entitled to be reinstated in his/her former job classification or to a position of like seniority status and pay grade unless the circumstances of the County have so changed as to make it impossible or unreasonable to do so. This leave shall not be granted beyond the first voluntary enlistment unless a national emergency exists.
- B. A regular employee who is drafted or recalled to active duty by reason of his/her reserve or other status shall be granted a leave of absence without pay and shall be entitled to be reinstated in his/her former classification or to a position of like seniority status and pay grade unless his/her position has been abolished in the time between his/her last day of work and application for return. This leave shall not be granted beyond the first voluntary enlistment unless a national emergency exists.
- C. Application for reinstatement shall be made as follows:
  - 1. Application for reinstatement must be made within ninety (90) days after discharge from active service or within one year if hospitalization continues after discharge; and
  - 2. Employee presents copy of honorable discharge or certificate showing satisfactory completion of service.
- D. Any regular employee who is a member of any United States military reserve or national guard unit and is required to engage in annual training exercises will be granted leave with pay for a period of time not to exceed fifteen (15) days in one year, if it will not result in harm to the interest of the County. County compensation will continue in effect during the time of military leave.
- E. When an employee returns from a military leave of absence, and the original position is upgraded or reclassified, the employee is eligible for the upgraded/reclassified position if qualified.
- F. No type of military leave shall be deducted from other types of leave earned by the employee.
- G. An employee returning from military service shall have a maximum of one year's service credited toward his/her length of service with the County for leave accrual purposes only.
- H. Temporary employees as defined in Chapter IV, Section 2 are not included.

**Section 11 - Educational Leave**

A regular employee may be given educational leave without pay for the purpose of taking courses directly related to his/her work. Request for such leave must be approved in advance by the Division Director and the Director of Human Resources. Since the time required for educational leave may vary from case to case, the Director of Human Resources may review and decide the merits of each case.

### **Section 12 - Bereavement Leave**

- A. Permission for leave for maximum periods of three (3) working days, depending on need, shall be granted to any regular or probationary employee by the Division Director in the event of death of one of the following members of the family: spouse, children, parents of employee or spouse or others who took the place of parents, grandparents of employee or spouse, grandchildren, brothers and sisters of employee or spouse, and other relatives living as members of the employee's household. If travel requiring staying away from home overnight is involved, additional days may be allowed and charged against sick leave.
- B. A regular or probationary employee shall be permitted to be absent from his/her duties without loss of pay or charge against leave credits for the purpose of attending the funeral of other people outside of the immediate family. After being granted leave with pay for this particular reason for any day or substantial portion of a day, he/she is expected to return to duty. Failure to return to duty when possible will result in charge to annual leave, or leave without pay.

### **Section 13 - Jury Leave**

A regular or probationary employee shall be permitted to be absent from his/her duties without loss of pay or charge against leave credits for the purpose of serving on a jury. If the employee is excused or released by the Court for any day or substantial portion of a day, the employee is expected to return to duty. Failure to return to duty when possible shall result in charge to annual leave, or leave without pay. To receive his/her regular rate of pay while on jury duty, the employee shall produce evidence to the Department of Human Resources of jury attendance.

### **Section 14 - Leave Without Pay**

A Division Director may grant a regular employee a leave of absence without pay for a period not to exceed one year. Failure of an employee to return to duty upon the expiration of his/her leave without pay shall be interpreted as a resignation. Leave without pay shall be granted only when it will not result in harm to the interest of the County as an employer beyond any benefits to be realized. If the employee is on a leave of absence in excess of thirty (30) consecutive calendar days, his/her beginning date of employment will be adjusted by the total number of calendar days over thirty (30) for computing annual and sick leave only.

### **Section 15 - Absence Without Leave**

An absence of an employee from duty, including any absence for a single day or part of a day, that is not authorized by a specific grant of leave of absence under the provisions of these regulations shall be deemed to be an absence without leave. Any such absence shall be without pay and may be subject to disciplinary action. In the absence of such disciplinary action, any employee who absents himself/herself for three (3) consecutive working days without leave shall be deemed to have quit. Such action may be reconciled by a subsequent grant of leave if the conditions warrant.

### **Section 16 - Disability Leave**

A regular, probationary or temporary (non-County funded) employee who is temporarily disabled in the line of duty shall receive full pay for the period of his/her disability without charge against his/her annual or sick leave, subject to the following conditions:

- A. Provided that the disability resulted from an injury or illness sustained directly in the performance of the employee's work, as provided in the State Worker's Compensation Act.
- B. If incapacitated for his/her regular employment, the employee may be given other duties with the County government for the period of recuperation. Unwillingness to accept such an assignment as directed by the Division Director or the Director of Human Resources will make the employee ineligible for disability leave during the time involved.
- C. A County appointed medical professional shall determine the physical ability of the employee to continue working or to return to work.
- D. Disability leave shall not exceed ninety (90) working days for any one injury, and after ninety days said employee may, at his/her request, be placed on sick leave.
- E. Payment of disability leave is also contingent upon the assignment of Worker's Compensation checks for the first ninety-day period to the County.

### **Section 17 - Compensatory Time**

- A. All non-exempt employees (i.e. those who are eligible to receive overtime) will be eligible to accrue and use compensatory time.
  - 1. "Compensatory Time" means time worked by a non-exempt employee in addition to the standard work hours in the regular work week for the particular position.
  - 2. Compensatory time must be approved in advance by the supervisor before the time is accrued or used. In addition, the supervisor will decide whether compensatory time will be given instead of overtime or straight time.

## Chapter X - Attendance, Holidays and Leave (continued)

3. For a non-exempt employee whose regular work week is 35 hours, compensatory time will be accrued on an hour-for-hour basis for hours worked above 35 in a week but not greater than 40 hours. For all employees, with the exception of Firefighters, hours worked above 40 will be accrued on a 12 hour-for-hour (time and a half) basis.
    - (e.g. for a 35-hour employee)
    - 37 hours worked = 2 hours compensatory time
    - 42 hours worked = 5 hours + (2 hours x 12) = 8 hours compensatory time
  4. \*Accumulation of compensatory time will be limited to the employee's regular work week (e.g. 35-hour employees will be limited to 35 hours, 40-hour employees to 40 hours). Accumulated, but unused compensatory time will be paid to non-exempt employees at the time of separation.
  5. Before compensatory time may be approved or accrued, the employee must first sign a Compensatory Time Agreement (Appendix 3). The signed Compensatory Time Agreement will be kept in the employee's personnel file, in the Human Resources office.
- B. Exempt employees (those employees who are designated as exempt from receiving overtime) are not eligible for compensatory time, but can compute pay period hours on a cumulative pay period basis, rather than on a daily basis. (e.g. an employee who is regularly scheduled to work 70 hours in a two-week pay period can work flexible hours during that period as long as the hours total at least 70 during the two-week pay period)
1. Working hours must be approved in advance by the Division Director.
  2. Generally, leave (not compensatory time) must be used for absences of one day or more. This subsection is not intended to allow an exempt employee to work less than a five-day work week on a regular basis, excluding holidays.
  3. As an incentive for working on an extraordinary project, the County Manager may authorize an exempt employee to accumulate compensatory time on a cumulative basis for a time period longer than one pay period. The maximum accumulated compensatory time will be determined by the County Manager. Accumulated but unused compensatory time will not be paid to exempt employees at the time of separation.

### Section 18 - Family Leave

- A. In addition to other types of leave mentioned in this chapter, regular employees are eligible for family leave. Upon request and approval, in advance, by the Division Director, regular employees are eligible to receive a total of twelve (12) work weeks of leave (paid or unpaid) during any 12 month period (measured forward from the first date the leave begins) for one or more of the following conditions:
- Birth of a son or daughter;
  - Placement of a son or daughter with the employee for adoption or foster care;
  - Care for spouse, son, daughter, parent or parent-in-law who has a serious health condition; or
  - A serious health condition of the employee.
1. All eligible accrued leave (e.g. annual, sick, holiday and/or compensatory) must be exhausted before family leave can be used and will count toward the maximum total of 12 work weeks of family leave within a 12 month period.
  2. The County will continue the employee's health care coverage at the regular employee's rate as long as all employee contributions are paid during the unpaid leave periods. However, if the employee does not return to work, the employee will be responsible for the County's portion of the premiums for the unpaid leave period. Arrangements must be made with the Human Resources office.
  3. During the unpaid family leave periods, sick leave and annual leave will not be accrued.
  4. While the employee is using family leave, the employee's position will be protected, and the employee will return to the position at the same grade and step at which he/she left.
  5. Whenever the need for family leave is foreseeable, the employee must provide 30 days advance written notice before the leave is to begin.
- B. Whenever the leave request is for a serious health condition, the County will require that a request for leave be supported with certification from the health care provider of the employee, spouse, son, daughter, parent or parent-in-law. Certification form WH-380 must be used.
1. If the validity of the certification letter is in doubt, the County may request that the employee obtain a second opinion, at the County's expense, from a health care provider designated by the County.
  2. If there is a conflict of opinion between the two health care providers, the County may request the employee to obtain, at the County's expense, an opinion from a third provider jointly approved by the County and the employee.

\* Accumulation of compensatory time will be limited to 80 hours for Division of Public Works' employees.



## Chapter X – Attendance, Holidays and Leave (continued)

### C. Family leave shall terminate:

- When the employee, spouse, son, daughter, parent or parent-in-law is no longer affected by the serious health condition;
- If the employee fails to provide documentation to continue the leave when requested;
- When the employee has exhausted the maximum period of time eligible for leave, however the employee may request an additional leave of absence in accordance with the Leave Without Pay section of the Personnel Rules (Chapter X, Section 14); or
- If the employee accepts other employment.